

JUDGE NAME: William M. Bendon DISTRICT: Southeastern ASSIGNED OFFICE: Philadelphia

Assistant's Name: Marian Perkins Assistant's email: maperkins@pa.gov

Assistant's Commonwealth Direct Dial Phone Number: 215-965-3030

JUDGE'S PROCEDURAL RULES AND POLICIES

Workers' Compensation Automation and Integration System (WCAIS) is the official repository for all documents related to a Dispute (matter pending) before a Workers' Compensation Judge. All documents, including evidence and briefs, that would have been submitted to a Workers' Compensation Judge by mail or in person prior to WCAIS should now be uploaded into WCAIS. If Social Security numbers appear on any such document, they should be completely redacted before the document is uploaded, unless otherwise specified below. All communications with the Judge, including but not limited to requests, should be submitted through WCAIS unless otherwise specified by the Judge.

HEARING PROCEDURES

1. What is the first event and what will occur?

A pretrial hearing

a. List any documents required at the first event:

This Judge does not require exhibits, but if supersedeas is being requested, the requesting party should upload supersedeas exhibits before the first hearing.

b. Should documents be uploaded as Exhibits or Letters to the Judge?

Exhibits

2. Describe the format of your hearings (e.g., serial, one day – one trial).

There will be a pretrial hearing followed by a final hearing.

3. Are you willing to change the hearing format upon request?

Yes, such changes would be decided on a case by case basis.

4. What factors will you consider in deciding whether to conduct a hearing in-person?

Any hearing where testimony is expected with the exception of compromise and release hearings will be in person if either party requests that it be in person.

5. What factors will you consider in deciding whether to conduct a virtual hearing by audio only or by audio with video?

All hearings without testimony expected will be held virtually.

6. What procedure do you follow if a party fails to appear at a hearing?

Generally, a party that misses a hearing will be given another chance to appear at a subsequent hearing. If a party misses the second chance hearing, generally I will grant the relief requested by the opposing party.

7. Do you have special procedures for psychological injury cases?

Each such case will be handled on a case by case basis.

SUPERSEDEAS PROCEDURES

1. What are your procedures for supersedeas hearings?

Employer will upload its supersedeas evidence prior to the first hearing. Claimant will be allowed additional time to respond if requested.

a. Will testimony be heard?

No

b. Is additional time generally granted to obtain medical evidence?

Yes

c. Under what circumstances will you reconsider a supersedeas order?

When the facts dictate that a reconsideration would be reasonable.

d. Do you generally use written orders for denials?

Yes

e. What is required for employee's counsel to obtain interim fee approval?

An interim fee will generally be approved in termination, suspension and modification petitions. I view the fee in most other petitions to be contingent on the claimant prevailing. However, I will hear argument in special circumstances.

f. Describe any other procedures for supersedeas hearings:

None

g. Describe procedures for special supersedeas hearings, if different:

None

WITNESSES/EXHIBITS

1. What are your rules regarding taking testimony?

Claimants will automatically be given the opportunity to testify live. Employer's witnesses will be also given the same opportunity, but employer's counsel will have to request such testimony in advance. Otherwise, fact witnesses and experts can testify by deposition.

2. Do you require testimony at a virtual hearing, an in-person hearing, or by deposition?

See above

3. Under what circumstances will you change your requirements for presentation of testimony?

When circumstances dictate a change

4. If counsel wishes to present the testimony of a witness (either virtually or in-person), do you require prior notice? Yes If yes, how much notice do you require?

5. What is your procedure regarding the order of expert medical testimony when cross petitions are filed?

Generally, the party that filed first will proceed first. However, there may be situations where this format is not effective and will be changed.

6. Do the parties need to upload the Bureau and WCOA documents as exhibits or will you admit them electronically as Judge exhibits?

The parties need to upload Bureau and WCOA documents.

7. Do you require counsel to upload exhibits to WCAIS before or after the hearing? Before If before, how far in advance of the hearing must they be uploaded? Before the final hearing.

8. When will you rule on objections to exhibits?

At the final hearing

9. What is your procedure for handling discovery disputes?

The parties should request a conference call through the Request tab.

10. What is the last day to file written preservations of deposition objections?

Written objections can be filed up until the time briefs are submitted.

COMPROMISE & RELEASES (C&Rs)

1. Describe your procedures regarding the review of C&R Agreements:

Click or tap here to enter text.

a. Are you willing to allow amendments of existing petitions or do you require the filing of a separate Petition Seeking Approval of a C&R Agreement?

I am willing to allow amendments

b. Are parties required to provide a draft of the C&R Agreement before the hearing? If yes, how far in advance of the hearing do you need to receive it?

Yes, the day before the hearing

c. Should the parties upload the signed C&R Agreement, including the fee agreement and any other attachments, before or after the hearing?

Before

d. Should child support documents be uploaded as a separate exhibit?

It does not matter to me

e. Should Social Security numbers and other confidential information be redacted from the C&R Agreement and Act 109 documents?

The parties shall continue to upload redacted and unredacted copies of the C & R Agreement

f. Will you sign bench orders?

No

g. Describe any other procedures you have for C&R Agreements:

Click or tap here to enter text.

STIPULATIONS RESOLVING DISPUTES

1. What are your usual procedures regarding the submission, review, and adoption of stipulations?

Stipulations should be uploaded along with a Request to adopt same.

2. Should the fee agreement be part of the stipulation or separate exhibit?

It can be either a part of the stipulation or a separate exhibit

3. Should child support documents be uploaded as a separate exhibit?

Yes

4. What other exhibits should be uploaded (i.e. medical bills, etc.)?

Those exhibits that have bearing on the substance of the stipulation.

5. Should other exhibits be uploaded as a part of the stipulation or as separate exhibits?

If they are integral to the substance of the stipulation such that the stipulation is incomplete without them, they should be uploaded as part of the stipulation.

6. When should Social Security numbers and other confidential information be redacted from the stipulation and Act 109 documents?

When that confidential information will be circulated along with an order or decision.

7. Describe any other procedures you have for stipulations:

Click or tap here to enter text.

BRIEFS AND PROPOSED FINDINGS

1. Will you close a case via WCAIS submission or is a final hearing required?

Generally, a final hearing is required.

2. What are the time requirements for final submissions and what procedures are taken when time requirements are not met?

The parties will be asked how much time they need to prepare their respective briefs. If reasonable their requests will be granted. If a party's brief is late, that party's attorney will receive a notice that the brief must be submitted in ten days or a decision will be made without consideration of the brief. Otherwise, reasonable requests for extensions will be considered.

3. Describe any preferences regarding the format and content of final submissions:

Click or tap here to enter text.

MANDATORY MEDIATIONS

1. List the offices where you conduct mandatory mediations:

Philadelphia and Springfield

2. What factors will you consider in deciding whether to conduct a mandatory mediation virtually or in-person?

It will be up to the parties.

3. What factors will you consider in deciding whether to conduct a virtual mandatory mediation by audio only or by audio with video?

Generally, all mediations will be video and audio so we can use breakout rooms. However, there could be situations where I would allow a mediation to proceed on audio only.

4. Are you willing to allow counsel or a party to participate virtually in an in-person mandatory mediation? If so, under what circumstances?

Yes

5. Do you require a Mediation Statement? Yes If yes:

- a. What information do you require in that Statement?

A brief statement of the facts of the case, the litigation status, the compensation rate, the status of negotiations and the strengths and weaknesses of the case.

- b. What documents, if any, must accompany the Statement?

None

- c. How far in advance of the mediation must the parties submit the Statement and accompanying documents?

The day before is adequate.

6. If there is a request to postpone a mandatory mediation, will it be rescheduled? No If so, how long until it is rescheduled? Parties can schedule a voluntary mediation.

7. Are you willing to conduct more than one mandatory mediation session per Dispute?

No

8. What is the latest day before the mediation that cancellation or postponement, absent an emergency, can be requested?

The day of the mediation.

9. What else should the parties know or do before the mediation?

Click or tap here to enter text.

VOLUNTARY MEDIATIONS

1. Do you conduct Voluntary Mediations?

Yes

2. How should the parties request a Voluntary Mediation?

They should email my secretary to secure a time and date and then request a voluntary mediation through WCAIS.

3. List the locations where you conduct in-person voluntary mediations:

Philadelphia and Springfield

4. Will you conduct virtual voluntary mediations? If yes, for which WCOA Districts will you conduct them?

Yes

5. Do you mediate Disputes assigned to you for hearing and decision?

No

6. Do you mediate Disputes in which one or both parties are unrepresented? If yes, describe any special procedures you have for such cases:

No

7. What factors will you consider in deciding whether to conduct a voluntary mediation virtually or in-person?

It will be up to the parties

8. What factors will you consider in deciding whether to conduct a virtual voluntary mediation by audio only or by audio with video?

It will be up to the parties

9. Are you willing to allow counsel or a party to participate virtually in an in-person voluntary mediation? Yes If so, under what circumstances?

Click or tap here to enter text.

10. Do you require a Mediation Statement? Yes If yes:

a. What information do you require in that Statement?

See above

b. What documents, if any, must accompany the Statement?

Click or tap here to enter text.

c. How far in advance of the mediation must the parties submit the Statement and accompanying documents?

Click or tap here to enter text.

11. After you approve a Voluntary Mediation Request, how long until it is scheduled?

I do not approve them until a date and time has been fixed.

12. Are you willing to conduct more than one voluntary mediation session per Dispute?

Yes

13. If the party wants to request cancellation or postponement of a voluntary mediation on a Dispute assigned to you, should they contact you or the mediating Judge?

Me

14. What is the latest day before the mediation that cancellation or postponement, absent an emergency, can be requested?

The day of the mediation

15. What else should the parties know or do before the mediation?

Click or tap here to enter text.

REQUESTS/MISCELLANEOUS

1. How far in advance do you require Requests for continuances, changes in hearing times, and extensions to be uploaded into WCAIS?

The parties should request a continuance as soon as they are aware of the necessity for a continuance.

2. Under what circumstances do you conduct off the record conference calls?

Generally, I will conduct off the record conference calls when requested if they are warranted.

3. Under what conditions/circumstances do you accept e-mails from parties?

I will generally accept emails for administrative and scheduling purposes only.

4. Do you adhere strictly to the duration listed for a Hearing or Mediation?

That depends on whether I have conflicting scheduled obligations.

5. What is the best way to contact you in an emergency situation?

Email to me or my secretary or both

6. What is your snow/emergency cancellation policy regarding in-person and virtual events (i.e., do you follow a specific school district closing schedule, etc.)?

I cannot see why snow emergency would require the cancellation of virtual events. For in person events, I follow the policy of the Philadelphia WCOA.